

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on February 3, 2003 at 3:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bill Glaser, Chairman (R)  
Sen. Bob Story Jr., Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Edward Butcher (R)  
Sen. Mike Cooney (D)  
Sen. Jim Elliott (D)  
Sen. Royal Johnson (R)  
Sen. Jeff Mangan (D)  
Sen. Don Ryan (D)  
Sen. Tom Zook (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Tari Elam, Committee Secretary  
Connie Erickson, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 107, 1/29/2003; HB 23, 1/29/2003  
Executive Action: SB 6; HB 23; SB 120

**EXECUTIVE ACTION ON SB 6**

***{Tape: 1; Side: A; Approx. Time Counter: 2 - 8.9}***

**Motion:** SENATOR DON RYAN moved that SB 6 DO PASS.

**Discussion:**

**Motion:** SEN. RYAN moved SB000601.ace.

**SEN. RYAN** explained the amendment allows a district to retain money as long as they have adequate room in their reserves.

**SENATOR BOB STORY** stated he understands the reason for the amendment, however, he continues to believe a school district should not be in the business of saving money they do not need. They should be spending reappropriated money to reduce mill levies.

**SENATOR ROYAL JOHNSON** inquired whether it would be possible for a district to place the money in their insurance fund. [no reply]

**Vote:** Motion failed 3-6 with COONEY, JOHNSON, and RYAN voting aye.

**SEN. RYAN** explained to the Committee the amendment would have cost the state a small amount of money if a district decided to keep money in reserves. He emphasized that because of a technicality in the terminology of the statute some districts are budgeting at the constitutionally required amounts, but they are not investing those dollars in education of their children. **SEN. RYAN** believes this is contradictory to the school equalization settlement. He would prefer the legislature address this problem here rather than waiting for a court case.

**SENATOR TOM ZOOK** explained the only reason he voted for the original bill was because of the statutory language. Each district was required to "levy" up to 80%, not spend. He is opposed to the present bill as it seems to be very anti-local control.

**Substitute Motion/Vote:** SEN. ZOOK made a substitute motion that SB 6 BE INDEFINITELY POSTPONED. Substitute motion carried 8-2 with COONEY and RYAN voting no; BUTCHER voting aye via proxy.

EXECUTIVE ACTION ON SB 210

*{Tape: 1; Side: A; Approx. Time Counter: 9.2 - 21.4}*

Motion: SEN. ELLIOTT moved that SB 210 DO PASS.

Discussion:

Motion: SEN. ZOOK moved SB 021001.ACE .

SEN. ZOOK indicated the reason for the amendment arises from the fiscal note. Since we cannot determine the number of persons who might be eligible--and, giving consideration to the number apparently involved in the Desert Storm conflict--he is concerned we might well create an obligation that cannot be met. He noted the amendment limits the number of eligible persons to ten.

SENATOR JIM ELLIOTT stated he understands the fiscal aspect of the amendment, however, he believes ten is too low. He inquired whether SEN. ZOOK would consider increasing the number. SEN. ZOOK responded he would be willing to increase the number to twenty.

Motion: SEN. ELLIOTT made a substitute motion that SB 021001.ace be CONCEPTUALLY AMENDED TO PROVIDE FOR "TWENTY" PERSONS.

SENATOR JEFF MANGAN asked CONNIE ERICKSON whether the bill should be amended to include selection criteria. Ms. Erickson replied it is her understanding selection is on a first-come, first-serve basis. The bill, as written, does not offer rule-making authority for selection. There is language for rule-making by the Board of Regents with regard to management of records and attaining reimbursement. Ms. Erickson stated should SEN. MANGAN desire to include qualifying language for the Department of Administration she will draft such an amendment.

SEN. MANGAN stated he believes twenty is far too low and is concerned by the distinct possibility of numerous veterans being left out when they return to Montana in one or two years. He asked SEN. ELLIOTT if that is a concern to him, and whether this can be staggered or be inclusive of twenty veterans per year. SEN. ELLIOTT responded he shares the concerns of SEN. MANGAN, but he believes the legislation should go forward in some manner.

SENATOR EDWARD BUTCHER stated he has real empathy for those who go into combat situations but, referring to the fiscal note's indicator of 14,000 persons having served in the Gulf War, he asked who do you actually award the benefit to. While it would

be nice to provide such an amenity for everyone, unfortunately, we must balance budgets. We already have 3,000 - 4,000 people from football players and everyone else receiving free tuition, and we will have to put an end to this at some point in time. While he finds the task unpalatable, it is an issue that needs addressing because bills must be paid. **SEN. BUTCHER** indicated, were we to give this benefit, he would like to see it based on someone having received a silver star or purple heart rather than the simple qualification of having been enlisted.

**SEN. ZOOK**, in response to **SEN. BUTCHER**, stated enlisted people do not know where they will be sent, or to what task they will be assigned. While he would like to see a bill such as this expanded to include all such persons, at the present number of twenty costs could reach \$200,000 per year; first year costs would probably be \$50,000 with relative increases annually.

**SEN. ELLIOTT** does not believe anyone who places their life in harm's way is receiving a free-ride. He suggested **SEN. ZOOK**, another person, and he be appointed to a sub-committee to establish some criteria.

**SENATOR BOB STORY** moved that consideration of this bill be postponed until the end of today's meeting in order to facilitate other obligations; **SEN. ELLIOTT** withdrew his DO PASS motion on SB 210.

#### HEARING ON HB 107

**Sponsor:** REPRESENTATIVE ALAN OLSON

**Proponents:** Karl Ohs, Lieutenant Governor, Montana  
 Linda McCulloch, State Superintendent of Public Instruction  
 Erik Burke, MEA-MFT  
 Darrell Rud, Executive Director, School Administrators of Montana (SAM)  
 Jack Copps, Executive Director, Montana Quality Education Coalition (MQEC)  
 Dave Puyear, Montana Rural Education Association (MREA)  
 Will Hammerquist, Associated Students, Montana State University, Bozeman  
 Sarah Cobler, Associated Student, University of Montana  
 Tom Figarelle, Forward Montana  
 Lance Melton, Montana School Boards Association (MTSBA)

**Opponents:** NONE

**Informational Witnessess:** Arlene Hannawalt, Director, Montana  
Guaranteed Student Loan Program

**Opening Statement by Sponsor:**

***{Tape: 1; Side: A; Approx. Time Counter: 21.5 - 25}***

**ALAN OLSON, HD 8, Roundup,** brought forward **HB 107** a bill which creates a signing bonus allowing for repayment of up to \$12,000 of student loan debt for teachers who are certified or endorsed to provide instruction in areas where Montana is experiencing a critical shortage. **REP. OLSON** expressed his appreciation to **Governor Martz** and **Lieutenant Governor Ohs** for requesting he bring this bill forward. **REP. OLSON** explained he served on a task force under former Governor Racicot that attempted to address issues surrounding teacher retention, salaries, shortages, and so forth; and from which a bill came forward that did not survive the process.

**REP. OLSON** indicated he did not sign the fiscal note because the bill states an appropriation is required from the legislature to repay student loans. He indicated no mandatory appropriation arises from this bill. The bill provides that a funding source must be identified before any obligation arises. For example, the bill allows for collection of grants as a potential source of partial funding. He also noted the \$12,000 is not a set amount. If a student's loans are less than \$12,000, the loan repayment would be reduced accordingly. He emphasized this legislation is intended as an incentive for teachers to locate into rural Montana and into subject areas where we are experiencing real shortages.

**Proponents' Testimony:**

***{Tape: 1; Side: A; Approx. Time Counter: 25.1 - 32}***

***{Tape: 1; Side: B; Approx. Time Counter: 1.3 - 18}***

**Karl Ohs, Lieutenant Governor,** indicated he is very proud to be a part of this bill's coming forward. He stated Montana's teacher shortage is reaching a critical stage, with students being those who experience the greatest impact. This adverse outcome continues while the state graduates top quality teachers. Without a recruitment program, he believes the top quality education Montana currently enjoys will suffer. He noted over twenty-five states have instituted a financial debt-assistance incentive to recruit new teachers, with many of those states hiring Montana students to educate their students. Most

importantly, this bill targets areas where shortages are most critical. **Lt. Governor Ohs** believes **HB 107** will allow Montana graduates to remain at home to teach another generation of Montanans. He also believes it will provide needed assistance to Montana's small communities. He urged the Committee recommend Do Concur on the bill.

**Linda McCulloch, State Superintendent of Public Instruction,** submitted written testimony **EXHIBIT(eds23a01)**.

**Erik Burke, MEA-MFT,** conveyed his organization's support of this legislation. **Mr. Burke** stated this legislation is about getting teachers to where they are most needed. He noted the average student debt load is well over \$25,000 dollars and this bill speaks directly to that issue. He read through various aspects of the bill noting from where the delineated areas arose, and explaining why it was felt the Board of Education should be responsible for determining qualifying areas on an annual basis. **Mr. Burke** also provided the Committee with **MEA-MFT's** suggested amendments **EXHIBIT(eds23a02)**.

**Darrell Rud, Executive Director, SAM,** stated his organization is in support of this bill as a partial solution to the critical teacher shortage in Montana. He referred to the publication, "Who Will Teach Montana's Children," 2002 edition, stating it contains some excellent statistics on the topic of the growing teacher shortage. **Mr. Rud** conveyed a story about his own experience growing up a rural community where every year they had a new teacher, and how great it was when a teacher stayed for two years. He requested the Committee think about those children who never have the same teacher. He believes the adjustment is tremendous for children, particularly those with learning difficulties of any type. **Mr. Rud** also conveyed a story regarding a recent graduate who contacted him before leaving the state asking if there were anything he could do to help her stay in Montana. Unfortunately, since there are no provisions to assist new graduates this teacher moved to Nevada. For these reasons, and many others, **Mr. Rud** urged the Committee recommend Do Concur on this bill.

**Jack Copps, Executive Director, MQEC,** expressed his organization's support for **HB 107**. **Mr. Copps** explained the state constitution stipulates all children of the state are guaranteed a basic system of quality education. While we may not agree on every detail of what constitutes a quality education, he believes all parties would agree there must be quality teachers in every classroom in the state. As the cornerstone of a quality education, if we cannot put our best teachers in the classroom nothing else will matter. **Mr. Copps** believes this is precisely

what **HB 107** attempts to address. He does not see the problem as being one of shortage; rather, he believes we have a great supply that is being captured by other recruiters. This bill will help to hold some of those people here. He briefly alluded to his experience prior to coming to **MQEC** explaining how those experiences have helped him to understand the complexity of the issue before us. He urged the Committee support **HB 107**.

**Dave Puyear, MREA**, stated his organization strongly supports **HB 107** and is most appreciative to **REP. OLSON** for including geographic concerns and issues in the bill.

**Will Hammerquist, Associated Students, MSU - Bozeman**, submitted written testimony **EXHIBIT (eds23a03)**.

**Sarah Cobler, Associated Students, UM**, started her testimony with a quote from John F. Kennedy regarding how we should think about education. **Ms. Cobler** indicated there are two aspects of the bill she will address: 1) necessity for student loan assistance from a student's perspective; and, 2) the bill as a whole. She outlined how dollars are allocated to the universities, and noted state support is declining. She also noted student fees are dramatically increasing. The result: students are graduating with increasingly high debt. On the second topic, **Ms. Cobler** believes this bill is very well written, which she thinks should make it easier for the Committee to send it forward for adoption. She noted the bill does not sunset, is a line item appropriation, and is relatively cost effective. She also noted the bill has a long history, so the underlying policy has come forward in a fairly polished format. The bill allows current teachers to benefit, and has a clear criteria selection process. **Ms. Cobler** believes each of these factors lends to this Committee's being able to support the bill.

**Tom Figarelle, Forward Montana**, expressed his organization's support for **HB 107**. **Mr. Figarelle** noted he was before this Committee last week on behalf of **SB 267** and continues to believe both bills are important, but he prefers this bill. He expressed his appreciation to the Governor's office and the sponsor for bring forth this legislation.

**Lance Melton, MTSBA**, stated his organization is in support of this bill as a very targeted and efficient way of addressing a specific problem being faced by our schools. **Mr. Melton** also expressed his appreciation to the Governor's office and **REP. OLSON**.

**Informational Testimony:*****{Tape: 1; Side: B; Approx. Time Counter: 18.1 - 19.6}***

**Arlene Hannawalt, Director, Montana Guaranteed Student Loan Program**, explained her program is responsible for coordinating grant, loan, and scholarship programs for the state of Montana. Due to this special role, they have access to a broad spectrum of information regarding each student; i.e., loan amounts, lenders, etc. Due to the fact they have this information available, her organization has decided to administer the program offered by this bill at no administrative cost.

**Questions from Committee Members and Responses:*****{Tape: 1; Side: B; Approx. Time Counter: 19.9 - 32}******{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 30.5}***

**SEN. RYAN** asked **REP. OLSON** about the definition of region; specifically, is a region distinct or simply a part of the local school district. **REP. OLSON** replied regions will be established under the rules process through the Board of Public Education and the Office of Public Instruction. **SEN. RYAN** stated he is concerned about small districts who are having difficulty recruiting but may be geographically close to a large district. For example, if Centerville is not able to find a science teacher, and is geographically within fifteen miles of Great Falls, will they be excluded? **REP. OLSON** replied he believes this legislation will greatly assist districts such as the one to which **SEN. RYAN** referred. **SEN. RYAN** then inquired whether this money will be counted toward the costs of education in a particular district. **REP. OLSON** responded in the negative. **SEN. RYAN** asked if the Representative would agree that in fact this is a subsidy from the state to help them recruit, where that assistance may not be available to districts such as Billings, Missoula, or Great Falls. **REP. OLSON** replied he would not concede this is a subsidy in any form. The money goes toward repayment of student loans.

**SEN. BUTCHER**, referring to the line of questioning posed by **SEN. RYAN**, indicated he as well has concerns over how lines will be drawn. He asked for further clarification from **REP. OLSON**. **REP. OLSON** explained his perception is **OPI** will arrive at a policy program based on district reports which include availability of positions, number of applicants, how many are offered contracts and choose to locate elsewhere, and so forth. He does not see this as having a specifically "rural" application, but one which addresses real need wherever it may arise. **REP. OLSON** also



indicated he intends to become involved in the rule making process and assist where necessary. **SEN. BUTCHER** asked whether this legislation would benefit accredited, private schools. **REP. OLSON** replied in the negative, noting it must be a public school.

**SENATOR JERRY BLACK** stated his understanding is this legislation is only available to students with outstanding loans. While he believes the program is worthwhile, he is troubled by the fact the bill seems to reward students who incurred debt while providing nothing for students who would like to remain in Montana but have no debt. **REP. OLSON** replied he had not thought about the incentive from that perspective; but, it is simply an incentive.

**SEN. ZOOK**, stating his question is similar to **SEN. BLACK's** in that he wonders about the reduction in benefit if someone has less than \$12,000 in student debt; or, for those students with no debt. He asked whether **REP. OLSON** perceived the potential message in that manner. **REP. OLSON** replied if a student has less debt, then 100% is forgiven. There are varying reasons why one student has more debt than another. In order to address potential fiscal impact, there needed to be some specifics to rely upon within the bill. On the topic of fiscal responsibility, **SEN. ZOOK** noted there cannot be funding without an appropriation from the state. **REP. OLSON** replied he believes the fiscal note is inaccurate and referred the Committee to page four of the bill which specifically sets forth funding requirements. Without an appropriation, there is no fiscal impact.

**SEN. RYAN** inquired whether in the instance a shortage is met would there be a loss of the benefit to the teacher. **REP. OLSON** replied if a teacher moves into one of the high need areas they remain qualified, if they move out of that area they lose the benefit.

**SEN. ELLIOTT** inquired of **Ms. Hannawalt** what percent of students in the university system take out loans over a four year period, the average amount of those loans over a four year period, and the total amount of loans made available on a yearly basis. **Ms. Hannawalt** indicated her organization keeps track of the average debt incurred by students each year. She indicated approximately seventy percent (70%) of students incur some loan debt. She outlined the major sources for financial aid offered by her organization. **SEN. ELLIOTT** requested **Ms. Hannawalt** provide him with the relevant information in written form. **Ms. Hannawalt** indicated she has been working on a chart which addresses each of those areas and will provide **SEN. ELLIOTT** with a copy on Wednesday.

**SEN. ELLIOTT** inquired whether student income is measured by family income. **Ms. Hannawalt** replied in the affirmative. She also discussed the realities of living in Montana with the highest poverty rate in the nation, and with nearly the lowest starting wages for professionals.

**SEN. ELLIOTT** stated he agrees with **SENS. ZOOK** and **BLACK** regarding extending this benefit to persons who have been able to put themselves through college without incurring debt. He also stated every effort he has seen which encourages people to teach in one area or another provides them with an advantage over other people. He asked **REP. OLSON** to discuss that issue. **REP. OLSON** stated **SEN. ZOOK** brought up an important point: where is our ending funding balance going to be? He noted the bill contains a provision for matching funds through grants. This might allow for an expansion of the program, but it will be a difficult decision regardless. He explained his intent was to address targeted, critical shortages in specific areas; accordingly, the legislation is narrowly tailored. He believes often times attempts to provide incentives are met with opposition due to the fairness issue because the money is not targeted. This proposal targets repayment of student debt.

**SEN. ELLIOTT** conveyed his thoughts regarding the need for this legislation stating it is another indication of our failure to adequately fund education. He believes the issue is not, "we cannot provide more funding;" it is, "we will not provide additional funding." He asked if **REP. OLSON** would care to respond. **REP. OLSON** stated rural areas have been hard-hit due to declining enrollments. They did not raise taxes to get to the top. They cannot raise salary schedules, and they cannot afford to pay benefits like larger districts. While these teachers may not continue in the district after four years, the district will have the benefit of their knowledge for that time. It is a beginning. Discussions have occurred which indicate there should be elimination of district or consolidation of districts, **REP. OLSON** is not certain whether that might be the eventual result.

**SENATOR ROYAL JOHNSON** noted there appears to be duplicate language within the bill. He asked **Mr. Burke** if he had interpreted or meant the language the way it is written. **Mr. Burke** explained the bill was intentionally written as printed. The first reference, Section 3(1), establishes a list of areas where critical shortages exist. The second reference, Section 3(3), establishes a list identifying the geographic regions within the state which are experiencing those shortages.

**SEN. JOHNSON** inquired whether this bill will eventually be presented to Finance and Claims. **SEN. ZOOK** replied he would

presume so. **SEN. JOHNSON** explained he is in support of the concept proposed by this bill, however, he believes his full support will be difficult because he is aware that \$226,000 in student assistance money has been cut from the previous budget.

**SEN. MANGAN**, referring to page three, Section 4(3), asked **REP. OLSON** for clarification on when a teacher must apply for assistance. **REP. OLSON** deferred to **Erik Burke**. **Mr. Burke** stated a teacher must apply by April 15 of the current fiscal year for which they are seeking consideration. **SEN. MANGAN** also sought clarification on when money would be distributed. **Mr. Burke** stated the intent was that money would be distributed upon verification the teacher was actually teaching in a qualifying area. **SEN. MANGAN** asked if payment was rendered in September and the teacher left before the end of the academic year, what measures are in place to reconcile the result. **Mr. Burke** stated that was the reason for the April 15th date because it is near the end of the year.

**SEN. STORY** stated the bill is not confined to first-time, first-assignment teachers. He asked if any teacher located in an identified geographic region would be eligible. **REP. OLSON** replied in the affirmative. **SEN. STORY** inquired whether the repayment applies to any loan advanced to the student; for example, a parent loan. **REP. OLSON** replied in the negative, referring the Committee to Section 4(8).

**SEN. STORY**, referring to **Mr. Copps'** testimony regarding the best and brightest leaving the state, inquired whether there have been any studies done on that observation. **Mr. Copps** replied he is not aware of any such study.

**SEN. BUTCHER** offered his observations regarding placement of first year teachers and why a teacher might make substantially more in Long Beach, California. He asked **Mr. Burke** for his thoughts on the matter. **Mr. Burke** stated he agrees with the assertion that some teachers are leaving the profession because they have been worked too hard in Montana. He also conveyed this bill speaks to a teacher's being able to seek additional education and then return to the classroom; for example, if a district needs more special education teachers an individual may seek that certification.

**SEN. BLACK** inquired whether a teacher living outside the state who applies for a position in one of the critical areas is given the same consideration as a person already living in Montana. **REP. OLSON** replied in the affirmative, noting there are areas of instruction not presently offered in Montana. For example,

Montana universities do not offer speech pathology, therefore hiring a person educated outside the state would be necessary.

**Closing by Sponsor:**

***{Tape: 2; Side: B; Approx. Time Counter: 2 - 5}***

**REP. OLSON** stated this bill is here subsequent to lengthy discussions in the House with a great deal of consideration being given to where the money will come from. He continues to look for funding, indicating there is work in House Appropriations which may provide a portion of the money. He encouraged the Committee to support the measure regardless of whether funding is found. He reminded the Committee if no funding is found there will be no cost to the State; however, if funding is located the program will be in place.

**HEARING ON HB 23**

**Sponsor:** REPRESENTATIVE GARY MATHEWS

**Proponents:** Stuart Doggett, Montana Community Colleges

**Opponents:** NONE

**Informational Witnesses:** NONE

**Opening Statement by Sponsor:**

***{Tape: 2; Side: B; Approx. Time Counter: 5.1 - 6.6}***

**REPRESENTATIVE GARY MATHEWS, HD 4, Miles City,** brought forward **HB 23**, a bill allowing Community Colleges to use prior three year average enrollment to calculate reversions for funded resident enrollment growth. **REP. MATHEWS** indicated this bill extends **HB 505** from the 2001 Session to include Community Colleges. He indicated this bill is necessary to provide Community Colleges a tool for managing their projections and programs.

**Proponents' Testimony:**

***{Tape: 2; Side: B; Approx. Time Counter: 6.7 - 8.5}***

**Stuart Doggett, Montana Community Colleges,** expressed his support of this legislation and appreciation for **REP. MATHEWS'** efforts. He indicated many students who graduate from the university system begin their education at Montana's community colleges. He

believes the campuses offer Montana students a broad spectrum of opportunity, and this legislation will help them to remain viable.

**Erik Burke, MEA-MFT**, stated, as a representative of some community college employees, his organization is in support of this bill.

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: B; Approx. Time Counter: 8.8 - 9.5}*

**SEN. BUTCHER** stated his understanding is the bill is only applicable in the event student numbers decline. He asked **REP. MATHEWS** if that is correct. **REP. MATHEWS** replied in the affirmative, noting it is compliant with present statutory language.

**Closing by Sponsor:**

*{Tape: 2; Side: B; Approx. Time Counter: 9.6 - 9.8}*

**REP. MATHEWS** closed discussion on the bill without further comment, expressing his appreciation to the Committee for a good hearing.

**CHAIRMAN GLASER** noted **HB 107** and **SB 267** both address the same issue from a similar perspective. He appointed a sub-committee consisting of **SENS. RYAN, STORY, and BLACK** to evaluate both perspectives and provide the Committee with a recommendation.

**EXECUTIVE ACTION ON SB 210**

**Motion:** **SEN. ELLIOTT** moved **SB 210 AND SB021001.ace**, **AS CONCEPTUALLY AMENDED**.

**Discussion:**

*{Tape: 2; Side: B; Approx. Time Counter: 11.7 - 14.1}*

**SEN. ELLIOTT** inquired whether he is correct in understanding the conceptual amendment made to **SB 210** makes the benefit available to 20 veterans per year. **SEN. ZOOK** replied in the affirmative. **SEN. ELLIOTT** then proposed selection be made by lottery.

**SEN. STORY** stated there will need to be language in the bill designating who is responsible for running the lottery. He asked whether the Board of Regents would be responsible. **Connie Erickson** replied it would be Department of Administration. **SEN. STORY** again stated the bill will need rule making authority language. **Ms. Erickson** requested the Committee not make a decision until she has time to draft the amendment. **CHAIRMAN GLASER** requested **Ms. Erickson** have the amendment ready for Wednesday's meeting.

**SEN. ELLIOTT** withdrew his motions on SB 210 and SB021001.ace as conceptually amended.

**EXECUTIVE ACTION ON HB 23**

*{Tape: 2; Side: B; Approx. Time Counter: 14.2 - 15.2}*

**Motion/Vote:** **SEN. STORY** moved that HB 23 BE CONCURRED IN. Motion carried 9-1 with JOHNSON voting no; SENATOR JEFF MANGAN to carry.

**EXECUTIVE ACTION ON SB 120**

*{Tape: 2; Side: B; Approx. Time Counter: 15.6 - 31.5}*

*{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 9.4}*

**Motion:** **SEN. STORY** moved that SB 120 DO PASS.

**Discussion:**

**Motion:** **SEN. ZOOK** moved SB012001.ace.

**Discussion:**

**Ms. Erickson** explained the purpose of the original bill was to allow retired persons to continue to work under contract on a limited basis. She also outlined the requirements set forth in the original amendment, stating the fifty-five year age requirement subjected the bill to legal challenge because there was no rational basis for choosing fifty-five; it was an arbitrary selection. She indicated the age does not appear in the retirement statutes. The new amendment relies on the twenty-five years of service requirement. Also, the amendment limits the number of persons allowed to participate at any one time to one hundred (100) and provides for a termination date of June 30, 2007.

**SEN. RYAN** stated the bill requires the person must have actually retired. He asked whether a person who has served twenty years and retires then has a desire to return should be excluded. **Ms. Erickson** replied the retirement statute requires twenty-five years for full retirement.

**SEN. BUTCHER** stated he sees this bill as an additional incentive for people to retire at an early age, then return to education and drain the system. He continues to be concerned by the fact these retirees will not be paying into the retirement system. He believes in order to maintain the actuarial soundness of the program, eventually the state will need to increase its' contribution.

**SEN. BLACK** indicated, although he believes **SEN. BUTCHER's** concerns are valid, the program is limited to one hundred persons per year for four years. He thinks the measure provides a stop-gap at a time when critical shortages are occurring. He also believes restraints placed on the bill by the amendment are sufficient to protect various interests.

**SEN. RYAN** stated, given the practical realities of educational funding, he does not believe the bill will sunset at the designated time, nor does he see any assurance the 100 person cap will not be increased.

**CHAIRMAN GLASER** indicated he had a question regarding 3(i) of the amendment. The last word of the sentence is "and." He is not certain whether it should say "or."

**SEN. STORY** inquired whether **Ms. Erickson** had located the language of Section 19-20-304. **Ms. Erickson** indicated the language refers to the guidelines established for membership termination. **SEN. STORY** asked about the affect of changing 3(i)... "and," to "or." **Ms. Erickson** indicated the intent was to ensure the person had retired. With an "or" statement, the person conceivably could still be actively teaching. Discussion continued briefly on the issue, resulting in a 10 year requirement, and the "and" statement remaining.

**Motion:** **SEN. STORY** moved SB021001.ace BE CONCEPTUALLY AMENDED.

**Substitute Motion/Vote:** **SEN. STORY** made a substitute motion that SB012001.ACE AS CONCEPTUALLY AMENDED DO PASS. Substitute motion carried unanimously; with SENS. COONEY, ELLIOTT, and ZOOK voting aye via proxy.

Motion/Vote: SEN. STORY moved that SB 120 DO PASS AS AMENDED.  
Motion carried 7-3 with COONEY, ELLIOTT, and MANGAN voting no;  
COONEY and ELLIOTT via proxy, and ZOOK voting aye via proxy.

CHAIRMAN GLASER briefly outlined the upcoming week's events.



**ADJOURNMENT**

Adjournment: 5:30 P.M.

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SEN. BILL GLASER, Chairman

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TARI ELAM, Secretary

BG/TE

**EXHIBIT** (eds23aad)